IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

WA.No. 2201 of 2006()

AGAINST THE JUDGEMENT IN OP.36117/2002 Dated 07/04/2003
.....

APPELLANT:

SEBY JOSEPH, COCHIN AGRO PRODUCTS,
KUNNUKAD, THENKURISSI, PALAKKAD DISTRICT.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON

RESPONDENTS:
---

1. SALES TAX OFFICER-I,
THIRD CIRCLE, PALAKKAD.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

3. STATE OF KERALA, REPRESENTED BY SECRETARY
TO GOVERNMENT, TAXES DEPARTMENT,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI GEORGEKUTTY MATHEW

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME SDAY DELIVERED THE FOLLOWING:

P.R.RAMAN & K.P.BALACHANDRAN,JJ.

W.A.NO.2201 OF 2006

Dated this the 24th day of November, 2006

JUDGMENT

Raman,J.

This writ appeal arises out of the judgment in O.P.No.36117/2002 rendered by the learned Single Judge. The challenge in the original petition was against the imposition of penalty on the appellant under Section 17 (5A) of the KGST Act. The learned Single Judge disposed of the original petition against which the present appeal is preferred.

2. The constitutional validity of the provision was also challenged. It is fairly submitted by the learned Counsel appearing for the appellant that the issue that arises for consideration in this appeal is squarely covered by a Division Bench decision of this

Court in **Vasulal International v. Additional Sales Tax Officer-II (2004 (3) KLT 162)** upholding the validity of the said provision.

In the circumstances, there is no merit in this appeal. It is accordingly dismissed.

P.R.RAMAN,
Judge.

K.P.BALACHANDRAN,
Judge.

kcv.